IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL

WRIT PETITION NO. 1180 (MS) OF 2001

(Old No. 2755/2000)

1. State of U.P., through Director, Irrigation Research Institute, Roorkee, District Haridwar.
2. Research Officer, Hydraulic Division-I, Roorkee (Haridwar).
3. Assistant Research Officer, IIIrd H-I, Bahadarabad, District Haridwar.

.....Petitioners.

Versus

1. Prescribed Authority, Labour Court, U.P., Dehradun.
2. Raghunath Singh, S/o Sri Bhagirath, through Sri Praveen Kumar Bharadwaj, 39 Gandhi Nagar, Meerut.

.....Respondents.

Dated: 26.04.2006

Hon'ble Rajesh Tandon, J.

Heard Learned Standing Counsel for the State.

By the present writ petition, the petitioner has prayed for a writ of certiorari quashing the award dated 17.11.1998 passed by the respondent no. 1 (Annexure No. 1 to the writ petition).

Briefly stated, the respondent no. 2 was as a daily wager. According to the petitioner, the respondent no. 2 who was admittedly a daily wager and was provided the role for a specified number of days on account of the exigency of the work in the establishment w.e.f. 20th June, 1987, he did not

turn up and again in the year, 1989 he worked only for 36 days.

The service of the petitioner was terminated on 20.06.1987. Thereafter, after ten years, the respondent no. 2 raised an industrial dispute before the Labour Court, which was registered as Case No. 222 of 1998. The Labour Court vide award dated 17.11.1998 reinstated the respondent no. 2. The State has challenged the said award on the ground that the irrigation department is not an industry.

Court below has recorded a finding to the following effect:-

"वादी श्रमिक ने सूची दि0 16–11–98 में अंकित 14 कागज दाखिल किए जिनमें से जनवरी 1987 से जून 87 तक के मस्टररोलों की छाया प्रतियां प्रमुख हैं जो सेवायोजकों द्वारा ही प्रमाणित हैं तथा सेवायोजकों द्वारा दिया गया ही एक प्रमाण पत्र है जिसमें वादी श्रमिक को चार वर्ष से कार्यरत दिखाया गया है। सेवायोजकों द्वारा जो कार्य दिवसों का विवरण प्रस्तुत किया गया है उसके अनुसार वर्ष 1986 में फरवरी व मार्च, अगस्त व सितम्बर तथा नवम्बर व दिसम्बर तथा 1987 में जून 1987 तक, मार्च माह में काम नहीं किया पर इस अवधि में प्रेष महीनों में सैप्रेप्रन आफ वर्क के लिए वह उत्तरदायी नहीं था और सेवायोजकों द्वारा पैदा किए गए ऐसे व्यवधान को अप्राकृतिक माना जाएगा।

अतः यह माना जाएगा कि वादी श्रमिक ने 240 दिनों से अधिक कार्य कर लिया था व उसे उ0प्र0 औद्योगिक विवाद अधिनियम के अन्तर्गत अधिकार/लाभ उद्भूत हो गए थे जिनसे उसको वंचित नहीं किया जा सकता था।"

A perusal of the findings shows that there was sufficient material to show that the respondent no. 2 has worked for more than 240 days. So far as the delay is concerned, the

labour Court has rightly awarded a sum of Rs. 5,000/- towards lumpsome amount and has rightly too granted the backwages.

I find no illegality in the order passed by the learned Labour Court so as to interfere under Article 226/227 of the Constitution of India.

Writ Petition is dismissed. No order as to costs.

(Rajesh Tandon, J.)

26.04.2006
Rathour